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COMMISSION ON HUMAN RIGHTS

Forty-seventh session

SUMMARY RECORD OF THE 15th MEETING

Held at the Palais des Nations, Geneva,
on Thursday, 7 February 1991, at 10 a.m.

Chairman: Mr. BERNALES BALLESTEROS (Peru)

later: Mr. VASSILENKO (Ukrainian Soviet Socialist Republic)

CONTENTS

Violations of human rights in southern Africa: report of the Ad Hoc Working Group of Experts (continued)

The adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the colonial and racist régime in southern Africa (continued)

Implementation of the International Covention on the Suppression and Punishment of the Crime of Apartheid (continued)

Implementation of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination (continued)

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The meeting was called to order at 10.30 a.m.

VIOLATIONS OF HUMAN RIGHTS IN SOUTHERN AFRICA: REPORT OF THE AD HOC WORKING GROUP OF EXPERTS (agenda item 5) (continued) (E/CN.4/1991/9 and 10; A/45/615)

THE ADVERSE CONSEQUENCES FOR THE ENJOYMENT OF HUMAN RIGHTS OF POLITICAL, MILITARY, ECONOMIC AND OTHER FORMS OF ASSISTANCE GIVEN TO THE COLONIAL AND RACIST REGIME IN SOUTHERN AFRICA (agenda item 6) (continued) (E/CN.4/Sub.2/1990/13 and Add.1)

IMPLEMENTATION OF THE INTERNATIONAL CONVENTION ON THE SUPPRESSION AND PUNISHMENT OF THE CRIME OF APARTHEID (agenda item 15) (continued) (E/CN.4/1991/40 and Add.1-2; E/CN.4/1991/41 and 42; A/RES/45/90)

IMPLEMENTATION OF THE PROGRAMME OF ACTION FOR THE SECOND DECADE TO COMBAT RACISM AND RACIAL DISCRIMINATION (agenda item 16) (continued) (E/CN.4/1991/43 and 45)

1. Mr. RICUPERO (Brazil) said that his country had always rejected racial discrimination, particularly in its institutionalized form of apartheid. Violations of human rights in South Africa had been on the agenda of the Commission on Human Rights for many years. The situation had long remained static and the international community had had the impression that, despite repeated condemnations of the South African régime, it was highly unlikely that apartheid would be abolished in the foreseeable future. There had, similarly, been little optimism about the end of South Africa's occupation of Namibia.

2. Yet the situation in southern Africa for the past two years or so had been fairly promising. By the closure of the Commission's previous session, Namibia had not yet become a sovereign State. Following Namibia's accession to independence, the Commission had decided to terminate the mandate of the Ad Hoc Working Group of Experts on Southern Africa. Brazil wholeheartedly welcomed Namibia's independence and had already appointed an ambassador.

3. At its previous session, the Commission had taken note of the statement made by President De Klerk on 2 February 1990 in the South African Parliament, where he had announced his intention of taking far-reaching measures to end the atmosphere of violence and initiate a political process between the parties. As a result, a number of political prisoners, including Nelson Mandela, had been freed and the ban on the ANC and other black majority political organizations had been lifted. Talks had then begun between the South African Government and the ANC, and had resulted in two documents that were binding on both parties and had laid the necessary foundations for continued discussions. His delegation welcomed those favourable developments, together with the repeal, in June 1990, of the Reservation of Separate Amenities Act, which had been one of the cornerstones of the so-called "petty apartheid".

4. A new stage had been reached the previous week with President De Klerk's address to the South African Parliament. His intention now was to repeal the Land Acts of 1913 and 1936, the Group Areas Act of 1966 and the Development of Black Communities Act of 1984. Following the introduction of transitional measures, the Population Registration Act of 1950 would also be repealed.

5. President De Klerk's public commitment to put an end to the existing statutory racial discrimination in South Africa was a welcome event. It was now the international community's duty to follow carefully the implementation of the measures announced and to ensure that, on completion of that process, apartheid would be well and truly dismantled and that every inhabitant of South Africa could enjoy all internationally recognized human rights. The situation in South Africa should continue to be kept under close scrutiny by the Commission.

6. The moderate hope aroused by the improved situation in southern Africa should not obscure the seriousness of the human rights violations that had taken place in South Africa since the previous session. Their serious nature was well demonstrated in the latest report by the Ad Hoc Working Group of Experts. Abuses by the security forces and police had continued, and had included arrest without charge, and torture of detainees. Many political prisoners had yet to be released, journalists were still subjected to harassment and there was also an upsurge of enforced displacements of populations. In view of the continuing climate of violence, his delegation considered that the mandate of the Ad Hoc Working Group of Experts should be renewed. It hoped that the Working Group would be able to tell the Commission at its next session that it had received the full co-operation of the South African Government.

7. With respect to the implemention of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, the main emphasis so far had rightly been on action to combat apartheid and on related issues. It was important, however, not to overlook the emergence of new forms of racial discrimination in societies which had hitherto been quite homogeneous. There had, in particular, been outbursts of xenophobia, discrimination against immigrant workers and stricter immigration control. Racial discrimination could take many forms, and such a complex phenomenon should not be oversimplified. The new forms of discrimination should receive serious attention in the context of the discussions and activities pursued at the international level in the field of human rights.

8. Mr. KOUPTCHICHINE (Ukrainian Soviet Socialist Republic) said that the Commission had long given priority to the human rights situation in southern Africa. In recent years, there had been some favourable changes, such as Namibia's accession to independence, which his delegation greatly welcomed. Namibia could at last join in the process of multilateral co-operation among countries in the field of human rights. Two lessons could be learned from the settlement of the Namibian problem. First, violence would never prevent peoples from gaining their independence, and second, it was plain that any conflict could be settled by political means, in accordance with the principles of international law, without need to resort to force.

9. The roots of the problem would not be finally eradicated, however, until the apartheid régime was completely abolished. Admittedly, President De Klerk had shown a willingness to settle the South African conflict politically and allowed anti-apartheid organizations to hold meetings, but the constitutional machinery of the régime was still operative and tangible results were not always as promised. Since 1984, there had been some 50,000 arrests, and about 100 children still awaited their freedom. Enforced transfers of population continued and police allocations had been increased by 28 per cent.

That meant that repression was continuing and apartheid was still very much alive. It was also highly regrettable that there was no democratic electoral law to guarantee all the people of South Africa the right to vote.

10. A new stage had nevertheless been reached with the initiation of a dialogue between the Government and the ANC. The recent progress should be neither minimized nor overestimated. It should, above all, be considered in the light of the Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted by the General Assembly at it sixteenth special session. In a letter to the President of the General Assembly at its forty-fifth sesison, the Minister for Foreign Affairs of the Republic of South Africa had announced the repeal of over 100 discriminatory laws and regulations and the intention to repeal such laws as the Group Acts, the Land Act and the Population Registration Act. President De Klerk had since shown his determination to continue with the application of that programme.

11. His delegation shared the concern of the Ad hoc Working Group of Experts, which had noted in its report that, in spite of a number of statements of intent from the South African Government to bring about superficial changes, the situation in South Africa had remained unchanged or become worse than before and that there were contradictions in the attitude of the Government of South Africa (E/CN.4/1991/10, para. 246). The Ukrainian authorities therefore considered it justified to continue to apply the sanctions against the South African régime, and regretted the fact that such sanctions were not being applied with the same determination by all countries, since they were the most effective way of inducing the Pretoria Government to give up its discriminatory policy. It was the embargo on the supply of arms, oil and oil by-products, the severance of economic relations and the boycott in cultural and sports relations which, along with resistance by the people, had forced the Government to begin to take favourable measures. The lifting of sanctions, even partially, might slow down that process. The international community should therefore reaffirm its determination to implement the resolution adopted by the General Assembly at its sixteenth special session, which established the principles for a new constitutional order and a full and detailed programme for the attainment of the desired objectives. His delegation did not underestimate the difficulties of abolishing the apartheid régime in South Africa by political means, but nevertheless considered it to be the only acceptable solution.

12. Mr. KEBRET (Ethiopia) said that the issue of racial discrimination and segregation in South Africa had preoccupied the United Nations since its establishment. One of the international instruments adopted in that field by the United Nations was the International Convention on the Suppression and Punishment of the Crime of Apartheid.

13. Since its entry into force in 1976, the Convention had made a tangible contribution to international efforts to suppress racism and apartheid. The number of States parties that had adopted legislative, judicial, administrative and other measures to give effect to the provisions of the Convention was not insignificant. In his delegation's opinion, the Convention was an important instrument since, under article IX, States parties had been able to exchange views and experiences regarding measures taken by their Governments and legislative provisions adopted in their respective legal systems to help suppress and punish the crime of apartheid.

14. So far, 88 States had ratified or acceded to the Convention. Only one State had acceded to the Convention in 1990 and the Working Group of Three, established under article IX of the Convention, had considered only 127 reports over the past 14 years. In addition, 35 of the States parties to the Convention had not yet submitted their initial report to the Working Group. As a result, 180 reports were still overdue. The consideration of the reports submitted so far was quite encouraging, but the delay in the submission of initial or periodic reports made it difficult to assess fully the implementation of the Convention.

15. As a State party to the Convention and a member of the Group of Three, the Ethiopian Government took advantage of the present opportunity to urge the States concerned to fulfil their reporting obligations, as stipulated in article VII of the Convention. Ethiopia also invited States which had not yet ratified or acceded to the Convention to do so without delay, so that the Convention could become a more effective international instrument. His delegation endorsed the conclusions and recommendations in the report of the Group of Three, contained in document E/CN.4/1991/42.

16. His Government was combating racial discrimination in all its forms and had actively participated in the defence of human rights, both domestically by adopting appropriate legislative, judicial, administrative and other measures and globally by ratifying or acceding to the principal instruments intended to combat racism, racial discrimination and the crime of apartheid. That policy was clearly reflected in the provisions of the Ethiopian Constitution and the Penal Code. The Ethiopian State had always been a multinational State, where the various nationalities coexisted and, in such a historical context, there could be no question of institutionalized racism or racial discrimination. The Ethiopian Constitution and criminal law prohibited all acts of racism and guaranteed the right to equality and justice before the law without distinction as to race, sex, or national or ethnic origin. The Constitution also provided that Ethiopia should ensure the common advancement of all nationalities by progressively eliminating economic disparities and paying particular attention to the least developed nationalities. The Penal Code (No. 158 of 1957) contained provisions regarding offences of racial discrimination, which were punishable by life imprisonment or death, according to the gravity of the cases. The legislation in force was therefore entirely in compliance with the basic provisions of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

17. Ethiopia had also endeavoured to fight against racial discrimination at the international level and had always supported the peoples of southern Africa in their struggle against the apartheid régime. In 1960, Ethiopia and Liberia had taken a major step in bringing the case of Namibia before the International Court of Justice. At that time, both countries had accused the Government of South Africa of violating human rights in Namibia and of preventing the Namibian people from exercising their right to self-determination.

18. At the present time, thanks to numerous Namibian martyrs who had sacrificed their lives for the cause of freedom and independence and to the ceaseless efforts of the international community, Namibia had finally achieved independence and the Ethiopian delegation warmly welcomed that fact.

19. Ethiopia's total rejection of the policy of racial discrimination stemmed from its unreserved commitment to the purposes and principles of the Charter of the United Nations. His Government had fully supported all United Nations resolutions and decisions aimed at eliminating the heinous crimes of apartheid. In that regard, Ethiopia's initial report, submitted under article VII of the Convention, showed sufficiently clearly the support given by Ethiopia to the liberation movements as well as to all measures designed to implement the decisions and resolutions of the United Nations. Ethiopia had also actively participated in the development of international legal instruments in the field of racial discrimination.

20. The time would soon come when the peoples of southern Africa would be able to exercise fully their inalienable rights and to determine freely their own destiny. Ethiopia, for its part, would continue to lend its total and unreserved support to all international initiatives aimed at dismantling the apartheid régime.

21. Mr. ERMACORA (Austria), referring to agenda item 5, said that one year after the address given by the South African President on the occasion of the opening of the South African Parliament on 2 February 1990, it was appropriate to assess the present human rights situation in South Africa in the light of the results of the new policy of change announced at that time by the South African Government. Significant and positive events had indeed taken place since that address and, for the first time, gave reason to hope for the total dismantling of apartheid, a system which inherently contradicted the very concept of human rights and human dignity.

22. A number of very important measures had been taken by the South African Government to abolish that system: the lifting of the ban on political organizations and movements opposed to apartheid, the release of Nelson Mandela and several other political prisoners, the repeal of the Separate Amenities Act, and the lifting of the state of emergency. Of particular importance, however, was the beginning of a dialogue between the Government and the African National Congress, contacts that had already yielded results, some of which were already mentioned in the Groote Schur and Pretoria Minutes, reproduced in annexes I and II of the report of the Ad Hoc Working Group of Experts (E/CN.4/1991/10), and others which would be seen in the future, since the dialogue had made it possible to create channels of communication between the parties. For the first time in 30 years, the anti-apartheid movements had been able to hold official meetings in South Africa itself.

23. On 1 February 1991, at the recent opening of the South African Parliament's session, President De Klerk had announced the tabling of legislation intended to repeal the Land Acts of 1913 and 1936, the Group Areas Act of 1950 and other provisions that determined land rights according to membership of population groups. The President had also announced that the text of the Population Registration Act had been scrutinized and that, following necessary amendments to the Constitution, it might also be repealed. Clearly, that Act was a fundamental instrument of apartheid policy.

24. Apartheid policy was applied on three levels: racist legislation, as contained in the Acts mentioned; security laws; and implementation of such laws, in particular by the South African security forces. With regard to the

latter point, unfortunately, it must be noted that the highest death toll in South Africa had been in 1990, higher than during the years of township revolts, between 1984 and 1986. That violence, which had spread from the province of Natal to other areas of the country, was largely a legacy of the past, since policies of racial domination and segregation had produced a highly fragmented social system where the lack of communication between people prevented conflicts from being solved by conciliation and barely promoted a political culture of tolerance. Moreover, as a result of unjust laws and police brutality, the majority of the population had less confidence in the administrative and judicial authorities, and hence the increase in the level of violence and the practice of taking the law into one's own hands.

25. It was the duty of the South African Government to protect the life of every South African, without regard to race, colour, political or other opinion. It was therefore incumbent on the Government to restore and maintain order and security. However, the security forces must act in a strictly impartial manner whenever they sought to prevent further outbreaks of violence. Through their brutal interventions, the police or army units frequently caused the death of innocent people and their action severely restricted freedom of political activity. Between 2 February and 31 August 1990, 197 persons had died and 2,490 had been injured as a result of police action.

26. The South African Government, subjected to national and international pressure, had assigned a commission of inquiry the task of conducting an investigation into allegations regarding the existence of police and military squads of killers who attacked anti-apartheid activists and organizations. Despite a limited mandate, the commission of inquiry had submitted a report containing the first official admission of the existence of clandestine units within both the police and the army. The Ad Hoc Working Group of Experts even referred to "death squads" or "hit squads" (E/CN.4/1991/10, paras. 110-125).

27. It was regrettable that only a very limited number of political prisoners had been released so far. The overwhelming majority of South Africans in exile were still waiting to return to their country. According to the Johannesburg-based Human Rights Commission, about 400 political trials involving 2,500 accused people had been pending at the end of 1990. Austria called on the South African Government to release all political prisoners and to accelerate the return of political exiles, preferably in co-operation with the Office of the United Nations High Commissioner for Refugees and other humanitarian organizations. It also called for an end to political trials and a review of existing security legislation with a view to abrogating the regrettably famous article 29 of the Security Act, which concerned the system of detention on remand.

28. Nothing had been said about the Internal Security Act, which authorized, inter alia, detention without trial and without legal safeguards for detainees, an Act which was still in force, as were about 100 acts restricting freedom of expression. The state of emergency had not been lifted in Bophuthatswana and the Labour Relations Amendment Act of 1988 still segregated black workers and black trade unions from white workers.

29. In the last analysis, however, it was the core of apartheid that would ultimately have to be changed, namely the Constitution. Austria therefore whole-heartedly supported the initiatives designed to promote negotiations on

the formulation of a new Constitution, with the participation of all political forces. It commended the emerging consensus on the convening of a multi-party conference to draft broad principles for a post-apartheid constitution after the remaining obstacles had been removed, which would create a climate conducive to the negotiations mentioned in the United Nations Declaration on Apartheid and its Destructive Consequences in Southern Africa, adopted in December 1989. Austria was pleased to see the mounting consensus among different political groups in South Africa that protection of human rights should play a central role in the new politic l order that was to emerge from the negotiations.

30. In addition to the principle of "one person, one vote", along the lines of the Namibian Constitution, the new constitution should contain a catalogue of human rights and a mechanism for their implementation. As Nelson Mandela had said, the new order in South Africa had to find a balance between black aspirations and white fears. The mere scrapping of so-called pillars of apartheid would not change the fact that black South Africans still suffered from deprivation, humiliation and injustice and it would not repair the damage caused by decades of apartheid. A peaceful settlement had to address civil, political, economic, social and cultural rights.

31. As in any heterogeneous, multicultural and multinational society, South Africa also had to protect minorities. Cultural and traditional identities had to be recognized and safeguarded. In accordance with article 27 of the International Covenant on Civil and Political Rights, ethnic, religious or linguistic minorities should "not be denied the right ... to enjoy their own culture, to profess and practice their own religion, or to use their own language". Anti-discriminatory provisions on that point should be included in the new Constitution. In that regard, the post-apartheid Constitution might well contain checks and balances to decentralize power and ensure fair representation of minority political groups. A federative structure might perhaps be appropriate in that multiracial society. However, minority rights should not serve as a pretext for continuing white domination. Needless to say, the system of homelands and bantustans would have to be abolished.

32. Alongside to the mounting internal pressure, the international community had to play an important role in encouraging and supporting the process of change in South Africa. In General Assembly resolution 45/176 A, the international community had come to the conclusion that the process of change in South Africa was still at an early stage and that further substantive progress needed to be made to promote the profound and irreversible change called for in the Declaration on Apartheid of December 1989. The recent announcements by the South African President were a step along those lines. The international community was called upon to render assistance to the victims of apartheid and to support the democratic process. To that end, Austria was contributing to several funds and activities inside and outside the United Nations framework.

33. Lastly, the day was approaching when South Africa would take its rightful place in the family of nations as a united, non-racial and democratic country. The process of change was still fragile and prone to setbacks. It was therefore the responsibility of everyone, the Government, Parliament, anti-apartheid organizations and the international community to continue the

efforts being made to ensure the attainment of a new peaceful order for South Africa that was fully in line with the principles of the Charter of the United Nations and the instruments for the protection of human rights.

34. Mr. BOUCHET (France), speaking in his capacity as President of the National Advisory Commission for Human Rights, explained, in connection with agenda item 16, France's position on the struggle against racism and racial discrimination, which it regarded as inseparable from the democratic ideal. The Declaration of 1789, the founding document of French democracy, had, in its first article, proclaimed equality of rights for all men, and the preamble to the French Constitution proclaimed in the first sentence that every human being, without distinction as to race, religion or belief, possessed inalienable and sacred rights. Yet it was common knowledge that rights, even when proclaimed, were not effective unless their implementation formed the subject of a precise and constantly updated programme. It was with that in mind that his delegation wished to describe the three series of measures adopted in France to assess, to punish and to prevent manifestations of racism.

35. Assessments of manifestations of racism must be updated regularly because of the shifting and varied nature of racism and changing circumstances; care must be taken to avoid overestimating or underestimating the importance of racist occurrences. By virtue of the Act of 19 July 1990, the National Advisory Commission for Human Rights had been assigned the task of preparing an annual report on racism in France, and it was issued on 21 March, the date set by the United Nations for the International Day for the Elimination of Racial Discrimination. The Commission, created in 1947 at the initiative of René Cassin, winner of the Nobel Prize for Peace, had been chosen for that task because of its pluralistic make-up (various organizations, trade unions and philosophical and religious associations) and its independence (representatives of the public authorities participated in its work but did not have the right to vote).

36. He did not want to anticipate the report that would be presented on 21 March 1991, but a two-fold conclusion could be drawn from an examination of known cases of racism. First, racist violence of all kinds (slayings, physical assaults, arson, property damage, use of firearms) had not increased perceptibly in number, partly perhaps because the police and the courts had been more effective in combating such acts and had been increasingly aware of their seriousness. The number of threats and insults (graffiti, pamphlets and anonymous letters and telephone calls) continued to increase, confirming the fact that a certain kind of racism was becoming commonplace and that there was a gradual breaking down of hitherto respected taboos.

37. Second, the victims of racist violence were still for the most part, persons from the Maghreb (north-western Africa), whether or not of French nationality, and threats affected more particularly young people. Everyday anti-Maghrebi utterances and acts were mostly tied in with difficulties of coexistence and with cultural incomprehension. Thus, while the struggle against various forms of racism could not be confined to a policy of better integration of immigrants in French society, the implementation of such a policy was none the less essential in the case of anti-Maghrebi racism.

38. Third, with regard to anti-Semitism, statistically the second most prevalent form of racism in France, 1990 had been marked by the desecration of Jewish graves at the town of Carpentras and an ensuing flood of damage to Jewish and Christian cemeteries at various places. As in the case of anti-Maghrebi racism, anti-Semitism was no more violent than in the past, but it had taken on new, more symbolic and more sinister forms.

39. Fourth, the last months of 1990, marked by the Gulf crisis, had raised the fear of growing tensions and inter-communal strife. In view of that alarming situation, it was important to stress the positive impact of the sense of responsibility demonstrated by the main leaders of the various communities concerned and the desire on the part of the large majority of their members to avoid disturbing the peace.

40. Fifth, it was difficult at the present stage to provide a more precise analysis of the various manifestations of discrimination in employment, housing or services, but numerous accounts suggested that they were all too frequent. In spirit and in practice, such manifestations were often concealed, and generally speaking, the victims were powerless and frustrated. As a consequence, the first task was to work to change attitudes.

41. Furthermore, it was necessary to improve the analyses of the context and origins of racist acts, whether anti-Maghrebi or anti-Semitic. Although usually a primitive and radical attitude, racism was not simple. Its manifestation was the result of many elements which, taken separately, might be harmless, but which, in complex mixtures, became explosive. Some social firebrands sought to combine the ingredients and make the concoction explode; the mechanism of such a bomb must be carefully defused. That was the purpose of the report to be put out on 21 March 1991, which would be drawn up on the basis of information from anti-racist associations "in the field", the relevant administrative bodies, an opinion poll on the subject of "The French and the fight against racism" and interviews with 33 experts.

42. The second area concerned measures to punish racism. Even before the Act of July 1990, France had already had specific anti-racist legislation, primarily the Act of 1 July 1972 - adopted after France ratified the United Nations International Convention on the Elimination of All Forms of Racial Discrimination - the Criminal Code and the Press Act (Act of 29 July 1981, as amended). Other legislation adopted between 1975 and 1987 showed that the lawmakers had systematically sought to combat racism and xenophobia and had improved measures to that effect.

43. The Press Act of 1981 defined three offences: instigating racial discrimination and hatred, justifying war crimes and crimes against humanity, and abuse and slander of a racial nature. Four offences were punishable under the Criminal Code: discriminatory refusal to provide goods or services; discriminatory dismissal or refusal to employ; economic boycotting for reasons of discrimination; and discrimination aimed at prejudicing the recognition of a right. Thus, the various expressions of racism and xenophobia were all covered under criminal law.

44. The Act of 13 July 1990 had considerably modified a number of provisions of the Criminal Code and improved other legislation by expanding the arsenal of enforcement measures and by diversifying penalties. It had not increased

the main prison sentences and fines, but it had reorganized and added to the associated penalties, namely posting and publication of the sentence in the written press and the Official Gazette, at the cost of the guilty party and in accordance with the court ruling.

45. The Act of July 1990 created a new offence by prosecuting anyone who disputed the occurrence of crimes against humanity. Public denial of any crime against humanity so recognized by a French or international court decision was subject to prosecution.

46. Lastly, the new text expanded the list of associations authorized to take action and it instituted for their benefit a right of reply in the press and in the audio-visual communication media.

47. The third aspect of the fight against racism involved preventive measures, the idea being that the national education system could and must play a role in that effort. Education in human rights and recognition of the world's different cultures and populations must be enhanced in school curricula, and teachers must be made more aware of those problems. The main role of schools in fighting racism and xenophobia was to work towards preventing ostracism or segregation, mainly by fostering a better mutual understanding among young people who shared the same classroom.

48. To that end, two series of measures had been taken by the Ministry of Education. They concerned the teaching curricula as such and educational activity in a broad sense. The curricula set by the Ministry of Education had defined the place that the fight against racism and the promotion of human rights must have in primary and secondary school education - one hour a week - and the subject to be discussed: self-respect and respect of others, recognition of the rights of others, equality of races and sexes, the dignity of the individual and rules to observe in the life of society.

49. Those educational activities offered the opportunity for active implementation in a number of forms: a priority education policy in lower-income urban neighbourhoods; national education action projects; a "north-south educational partnership" campaign to create partnership relationships between French schools and schools in a country south of the Sahara; and local education action projects.

50. Lastly, it was perhaps useful to mention several of the measures taken by the Ministry of Education to ensure respect for the various religious communities and to keep the peace in school. For example, Muslim and Jewish pupils could be absent to observe their religious holidays, and examinations either were not scheduled for those days, or the children could take them at another date; in school canteens, Muslim and Jewish pupils could have special meals; following the "Islamic scarf case", a ministerial circular in December 1989 had ruled that wearing such religious clothing in State schools was compatible with the principle of secular education, providing that the rights of others were respected and that it did not interfere with educational activities. The very few difficulties encountered in that regard had been eliminated, in accordance with those provisions, through a conversation with the child and the parents. By teaching children to live together and respect each other's differences, the national education system sought to teach them to live in a democratic and pluralist society, which, in the long run, would appear to be the best guarantee against the scourge of racism.

51. In the light of experience, all of those measures, whether they were aimed at assessing, punishing or preventing racism, had been considered essential to enhance French efforts. As with all matters concerning the defence of human rights, comparing experiences could prove useful and even necessary. It was in that spirit that his delegation supported the project for a meeting of the various national institutions working toward the same goals, a suggestion that it had itself made to the Commission two years previously. Resolution 1990/73 might make it possible to start such co-operation and, by so doing, to demonstrate in a concrete fashion a readiness to take joint action, despite the vicissitudes of the moment.

52. Mr. SEZAKI (Japan) said that his Government had welcomed the measures announced by President De Klerk in the South African Parliament. It was to be hoped that negotiations in good faith on a new Constitution would begin soon.

53. His Government applauded the meeting between the Deputy President of the African National Congress, Mr. Nelson Mandela, and the Inkatha leader, Mr. Mangosuthu Buthelezi, on 29 January and the joint communiqué they had issued. President De Klerk had closed a chapter in South African history, and the two black leaders were opening a new one. It was to be hoped that, as an outcome of the meeting, factional fighting would cease without delay, paving the way to a peaceful solution to South Africa's problems.

54. With regard to torture and the inhuman treatment of children in detention in South Africa, his delegation had examined with interest the report of the Secretary-General on that subject (E/CN.4/1991/9) and the final report of the Ad Hoc Working Group of Experts on Southern Africa (E/CN.4/1991/10). It was particularly concerned at the number of cases of violations of the human rights of children and hoped that the recent political developments would remedy the deplorable situation of many children in South Africa.

55. It was somewhat bewildering to read in paragraph 21 of the final report that, despite the Commission on Human Rights and Economic and Social Council recommendations for close co-ordination between the parties involved, the Ad Hoc Working Group regretted inadequate co-operation with the Special Committee against Apartheid. The Working Group recommended that the Commission on Human Rights should again invite all bodies or organizations engaged in activities related to the various mandates of the Ad Hoc Working Group of Experts, and particularly the Special Committee against Apartheid, to co-operate more closely with the Group.

56. His delegation would be grateful if the Secretariat could give the reasons for the inadequate co-operation described in the report. Close co-operation and co-ordination between the parties involved, in particular United Nations organs, was essential in promoting the elimination of racial discrimination and apartheid.

57. As to the report by Mr. Ahmad M. Khalifa, Special Rapporteur on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (E/CN.4/Sub.2/1990/13 and Add.1), his delegation maintained the position it had expressed on a number of occasions in the past. It was to be hoped that the discussions on the question of the situation in South Africa would be conducted in a constructive spirit; the

changes that had occurred in that country deserved support. In that connection, he fully endorsed the statements by the representatives of Canada and Sweden on the need to adopt resolutions and on the contribution of the Commission. It was to be hoped that a consensus could be reached on those resolutions.

58. Mr. Vassilenko (Ukrainian Soviet Socialist Republic) took the Chair.

59. Mr. MADHOUR (Iraq) said that the final report of the Ad Hoc Working Group of Experts on Southern Africa (E/CN.4/1991/10) gave an accurate picture of the human rights violations in South Africa, and he commended the members of the Group for their excellent work.

60. The question of eradicating apartheid had always constituted a priority for the United Nations, but the international community had not yet been able to punish the racist régime and force it to abandon its practices. On the contrary, certain States had helped to ensure the survival of the régime through their national companies. A country like the United Kingdom did not boycott South Africa because it was defending its own economic interests. Owing to such attitudes, the sanctions that had been decreed years ago had had little effect. Furthermore, no one could ignore that the South African régime and the Zionist régime had been engaged in military co-operation, despite the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination and the adoption of the International Convention on the Suppression and Punishment of the Crime of Apartheid.

61. The same States that had ties to South Africa had been imposing a barbarous blockade on Iraq, in order yet again to safeguard their colonial interests. Hundreds of Iraqi children were being deprived of milk and medicine.

62. The racist régime of South Africa could not be reformed, it must be eradicated. The South African Government must abandon its policy of institutionalized racism. But could one conceivably think that it was moving towards that goal when resistance to apartheid was still considered to be a crime punishable by the death sentence? Hence promises by the South African authorities of a change in policy should be treated with caution, and the embargo should be strengthened.

63. Iraq supported the legitimate struggle of the South African people to build a pluralist society in which all citizens lived in peace, black and white children played together, public facilities were open to all and the population lived in dignity, as required not only by the relevant international instruments but also religious and moral values.

64. Mr. PAGAC (Czech and Slovak Federal Republic) said that racism and racial discrimination remained a grave problem in today's world. No country was spared the phenomenon, which often took the form of social conflicts between cultural or ethnic communities.

65. Calls for intolerance and hatred based on race appeared to have increased, confirming that the objectives of the Second Decade to Combat Racism and Racial Discrimination were still far from being achieved and that further efforts were necessary.

66. The Czech and Slovak Federal Republic supported the recommendation of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, contained in its resolution 1990/1, to launch a third decade to combat racism and racial discrimination. The third decade should focus on a study of current trends in racism, racial discrimination, intolerance and xenophobia, as well as measures taken by Governments to put an end to them and to eliminate racial prejudice through education. The NGOs played an irreplaceable role in that regard. Even in his country, where it had been thought for years that racism was alien to society, manifestations of racial intolerance had occurred, in particular towards Romany gypsies and Vietnamese, but the authorities had taken measures to ensure that they ceased.

67. Strict implementation of the International Convention on the Elimination of All Forms of Racial Discrimination was the most important legal basis for any action to eliminate that evil. Unfortunately, the unwillingness of certain States parties to fulfil their financial obligations had considerably weakened the efficiency of the Committee on the Elimination of Racial Discrimination, a mechanism set up to monitor implementation of the Convention. The Czech and Slovak Federal Republic shared the view of the delegations that had suggested that the work of the Committee be financed from the regular budget of the United Nations. A steady exchange of information at joint meetings of representatives of the Committee and the Sub-Commission would enhance the effectiveness of both bodies.

68. The question of racism and racial discrimination had always been linked to that of apartheid, which was one of the most flagrant violations of human rights and the dignity of every human being. The international community had unanimously condemned apartheid, a system which, it should be repeated, could not be reformed, but must be completely eradicated. The information provided by the latest report of the Ad Hoc Working Group of Experts on Southern Africa (E/CN.4/1991/10) showed that the attention given to the human rights situation in that region had been fully justified and had yielded positive results. His Government noted with satisfaction the important measures taken by the South African Government to meet the demands of the international community and to create suitable conditions for a negotiated settlement. In particular, it welcomed the removal of the ban on opposition organizations, the amnesty for political prisoners and the lifting of the state of emergency. The imminent repeal, announced by President De Klerk, of the legislation constituting the main legal pillars of apartheid, raised hopes that negotiations would begin on creating a new political and economic system in South Africa that would make sure apartheid was dismantled. It was essential for the international community to encourage all parties concerned to pursue their efforts to build a democratic, pluralist, multiracial and multicultural society in South Africa; then, such a country would no longer be a threat to its neighbours but would, instead, become a driving force for progress and development in the region.

69. Unquestionably, the decisive action of the international community, including economic pressure on the Government of South Africa, had contributed significantly to the process of dismantling apartheid, and his country had been one of those that had supported such collective efforts from the outset. But sanctions were not an end in themselves; they should be only one of the measures taken to ensure full observance of fundamental human rights in southern Africa. Admittedly, the democratic process in South Africa was perhaps more complex than in other countries, but his delegation was confident

that a readiness to ensure respect for human rights would take precedence over hatred and violence and that the Commission on Human Rights would help to achieve that goal by adopting relevant resolutions on the question.

70. Mr. SENE (Senegal) said that the report of the Ad Hoc Working Group of Experts (E/CN.4/1991/10) provided an overview of the process of change taking place in South Africa and identified human rights violations under the apartheid system.

71. In its general observations, the Group focused on the persistent massive repression against students and trade unionists, the forced removal of population groups, the restrictions imposed on freedom of expression and the increasing number of cases of detention without trial of political prisoners and of torture and mistreatment, inflicted in particular on trade unionists and even on children. The report prepared by of Mr. Ahmad Khadifa (E/CN.4/Sub.2/1990/13 and Add.1) showed conclusively that, despite their inadequacies, shortcomings and deficiencies, company disinvestment measures and sanctions had had a perceptible impact on the South African economy. The report of the Ad Hoc Working Group of Experts raised the question of sanctions in paragraph 211; an article in the International Herald Tribune of 20 April 1990 was cited, and listed the leading suppliers of crude oil to South Africa over the past decade. In paragraph 212 of the report, it was pointed out that there was a consensus of opinion in the black population that sanctions should be continued as long as the pillars of apartheid, the Group Areas Act, the Population Registration Act and the Land Act, were still intact.

72. In actual fact, many changes had transpired in South Africa even before the speech before the Parliament by President De Klerk on 2 February 1990. Nelson Mandela and 11 other political prisoners had been released, 30 political organizations had been unbanned, the Separate Amenities Act (the law governing racial segregation in public places) had been repealed and on 10 October 1990, the state of emergency had been lifted, including in the region of Natal. From 2 to 4 May 1990, President De Klerk and members of his Government had held talks in Groote Shuur with representatives of the African National Congress and Joe Slovo, Secretary of the Communist Party, at which obstacles to negotiations had been identified and set forth in a statement, which appeared in annex I to the report. Details were also provided of the parties to the talks: on the one hand, the South African Government, with a delegation of nine white male Afrikaaners, and on the other, ANC, with a multilateral representation of men and women consisting of seven blacks, two whites, one an English-speaker and the other an Afrikaans-speaker, together with an Indian and a Coloured. Those details were of symbolic significance. Throughout the first series of talks, ANC had demanded the release of political prisoners, an end to the trials, the return of all exiles and the lifting of the state of emergency. For its part, the Government had called on ANC to forswear armed struggle. ANC had agreed to suspend, but not to abandon, armed struggle at the second series of talks in Pretoria on 6 August 1990.

73. More recently, on 1 February 1991, President De Klerk, speaking in Parliament in Cape Town, had promised to abolish in the coming months the three pillars of the apartheid system: the Group Areas Act, which regulated place of residence in terms of the colour of one's skin, the Land Act, which set aside 87 per cent of the land for the white community, and the Population Registration Act, which divided South Africans at birth according to race.

74. It would therefore appear that the talks had made significant progress towards a new, democratic and non-racial South Africa, but the road ahead was still long and full of obstacles. President De Klerk must face conservatives hostile to any change, and Nelson Mandela must take into account extremist positions in his camp, not to speak of conflicts that split the black community.

75. At the recent meeting between the Vice-President of ANC and the Zulu Chief, Mangosuthu Buthelezi, of the Inkatha, the two leaders had decided to stop the internecine strife, which had cost thousands of lives. They had declared that peace within the black community was the sole way to put an end to apartheid and white supremacy and that it was urgently necessary to create a political climate in which opinions could be freely expressed by all and in which each of the organizations would refrain from engaging in violent criticism of the other. It was to be hoped that words would be followed by acts.

76. In any event, according to Nelson Mandela, the reforms just announced by President De Klerk should not lead the international community to draw hasty conclusions about lifting economic sanctions against Pretoria. ANC was against a coalition government to share in the management of apartheid in the process of change. Instead, it favoured the election of a constituent assembly and the creation of a transition government.

77. The Commission must ensure a peaceful settlement by exerting the necessary pressure on the South African Government and encouraging it to continue the dialogue with the black community. All segments of society must be involved in building a South Africa in which all citizens had the right to choose their Government in elections based on universal and equal suffrage.

78. The excellent co-operation between the Ad Hoc Working Group of Experts and ILO was most gratifying. In that context, the Commission should see how the agreement concluded on 7 May 1990 between the organizations of black workers (COSATU and NACTU), and the organization of white employers (SACCOLA), was followed up; the agreement should be reflected in an amendment to the South African legislation on labour relations to strengthen co-operation and avoid social crises by respecting the rights of trade unions. His delegation had also supported the recommendation of ILO's Commission against Apartheid, adopted by consensus at its seventy-seventh session in June 1990, to convene a subregional tripartite conference of representatives of Government, employer organizations and workers in order to study the concrete prospects of a regional integration that included a South Africa liberated from the yoke of apartheid and the creation of a democratic and multiracial society based on the principle of one man, one vote and a single electoral roll.

79. On his return from Morocco on 25 October 1990, President De Klerk, meeting with the President of Senegal, Mr. Abdou Diouf, in Dakar, had announced to the press the preparation of a constitution under which all South African citizens could participate in public life at all levels and had stressed the important and constructive role that South Africa must play in all African organizations as a fully-fledged African State.

80. The Commission should help in bringing the South African Government to comply with its commitments in order to restore peace, security and confidence. The Government of South Africa should, among other things, consider the question of the application of the Internal Security Act, which authorized detention without trial and opened the door to all forms of abuse, including killings, torture and inhuman and degrading treatment. In that connection, the Ad Hoc Working Group of Experts recommended (para. 262) the establishing of an international criminal tribunal to judge persons presumed to be responsible for the assassinations, bearing in mind the progress made by the International Law Commission on the code of crimes against the peace and security of mankind.

81. Top priority must be given to resolving the problem of the release of political prisoners and the return of thousands of exiles and to ensuring respect for freedom of association, expression and assembly in order to allow all political organizations to participate in the democratization process. In that connection, the idea of a conference of all parties, following the successful example of the Namibian experience, deserved consideration.

82. The Commission should also examine what assistance could be given, through United Nations machinery, to help those in South Africa who participated in negotiating a new constitutional order. As had been pointed out on numerous occasions, apartheid could not be reformed, it must be eradicated, but account must be taken of such serious consequences as economic, social and cultural imbalances, not to speak of frustration, alienation, historical and mythical obstacles and prejudices that weighed on attitudes and daily life.

83. More than ever before, the Commission must, within the framework of the Programme of Action for the Second Decade to Combat Racism and Racial Discrimination, give concrete proof of the commitment of the United Nations to the universal struggle against those scourges throughout the world.

84. Now, at the close of the twentieth century, at a time of fears and uncertainties, it was essential to promote mutual understanding and tolerance in order to combat the absurdity of prejudice and foster the common desire of the peoples and nations of the world to live together in dignity and equality.

85. The Commission's strategy for combating racism and racial discrimination must help it recover the language of consensus in resolutions and measures and ensure that the age-old dream of a South Africa at peace with itself and with the world could become a reality. It would be a wonderful lesson in history, a victory of the spirit and a triumph of dialogue and of peaceful settlement of disputes over the confrontation of blind forces and barbarity. Such an experience in humanism and national reconciliation could give hope to those who dreamt of a true fraternity on earth.

86. Mr. BLACKWELL (United States of America) reiterated that the United States was firmly opposed to apartheid and was committed to seeking all appropriate means to hasten its end and the creation of a non-racial democracy in South Africa. The system of apartheid was an affront to the basic principle of equality of rights set out in the Constitution of the United States and in the Universal Declaration of Human Rights.

87. The United States therefore welcomed President De Klerk's announcement at the opening of the South African Parliament on 1 February of the forthcoming repeal of the Group Areas Act, the Land Act and the Population Registration Act. That announcement was further evidence of the irreversible process of change in South Africa that had begun in 1990 with the release of Nelson Mandela and other political prisoners, the return of many exiles, including Oliver Tambu, President of the African National Congress, the recognition of political organizations that had been banned for years, the repeal of the Separate Amenities Act, the lifting of the state of emergency in the country and, needless to say, the independence of Namibia. Most significant also had been the productive dialogue between the Government and ANC on a new political order. The United States was pleased at President De Klerk's acceptance of the idea of a multi-party conference proposed by ANC to advance the democratization process through negotiations that would lead to a new constitutional system based on regular and free elections, universal suffrage, equal rights and equal opportunities. It also commended ANC for suspending the armed struggle, since peace was crucial to any transition, and it welcomed in particular the meeting between Nelson Mandela and Chief Buthelezi.

88. The Declaration on Apartheid and its Destructive Consequences in Southern Africa, which the General Assembly had adopted by consensus at its sixteenth special session in December 1989 (A/RES/S-16/1), and the resolution on apartheid, adopted by the General Assembly at its forty-fifth session, attested to the efforts made by the international community to promote the process of peaceful change in South Africa and to support the negotiation efforts in order to create a democratic and non-racial society in that country. It was important to encourage South Africa to continue along the path of progress.

89. The five conditions set by the United States for lifting the sanctions against South Africa in the Comprehensive Anti-Apartheid Act of 1986 were very clear and not open to reinterpretation. South Africa had already met some of them, and it was to be hoped that it would do so with the others as well. The Government of South Africa still had far to go to realize the dream of the South African people. Repeal of the Internal Security Act and the Public Safety Act, which permitted detention without charge or trial, would be a positive step. But the international community must recognize and encourage the process of change as it proceeded. It should be prepared to modify its approach when events so required. Its aim was the total dismantling of apartheid and the creation of a society in which all people would be equal before the law and would enjoy equal rights regardless of race, colour, sex or creed, as called for in President De Klerk's "manifesto" of 1 February 1991.

90. It was to be hoped that the Commission would adopt a consensus resolution that reflected the current political realities of South Africa and broad support among Commission members for peaceful change through dialogue and negotiation.

91. Mr. LOEIS (Indonesia) said that apartheid was not merely a type of racism and racial discrimination that all civilized societies must condemn and reject, but was one of the worst manifestations of colonialism and a violation of human dignity, because it was built upon the obsolete view that superiority was based on the colour of one's skin. That was contrary to the aims set by

the nations of the world in the Charter of the United Nations and in the Universal Declaration of Human Rights. The international community must therefore do everything within its power to eradicate apartheid.

92. The Programme of Action for the Second Decade to Combat Racism and Racial Discrimination was the most appropriate vehicle for joint action in that regard, and it was therefore important to implement all the Programme's activities and, to that end, to solve the problem of the lack of resources, which could interfere with attaining that objective. In that regard, his delegation welcomed Mr. Eide's analysis of the achievements made and the obstacles encountered in the first two decades, which would be beneficial in preparing the third decade.

93. Indonesia had always taken an active part in the international effort to dismantle apartheid, which remained a threat to peace and stability in southern Africa; in particular, it had been involved in the activities of the Special Committee against Apartheid. While welcoming the measures recently taken by the South African Government, such as the lifting of the ban on the African National Congress and the Pan Africanist Congress of Azania and on other political parties and organizations, the release of Nelson Mandela and the announcement that legislation constituting the legal basis for South Africa's ideology of racial discrimination was to be repealed, his delegation none the less noted that the structural foundation of the system remained in place, because, as underlined by Mr. Mandela in his speech at ILO on 8 June 1990, the people of South Africa were still ruled by a white minority Government and did not yet enjoy all normally recognized rights, in particular the right to vote. For that reason, Indonesia, which had hosted the Conference of Bandung in 1955, would continue to support the South African people's struggle against apartheid and for justice and equal rights. During Nelson Mandela's visit to Indonesia in October 1990 as an official guest, the Indonesian Government had made a special financial contribution to that struggle in addition to its annual contribution to the various funds for South Africa, including the fund established by the Non-Aligned Movement.

94. Lastly, his delegation expressed its appreciation to Mr. Ahmed M. Khalifa, Special Rapporteur of the Sub-Commission on Prevention of Discrimination and Protection of Minorities, for his updated report on the adverse consequences for the enjoyment of human rights of political, military, economic and other forms of assistance given to the racist and colonialist régime of South Africa (E/CN.4/Sub.2/1990/13 and Addenda). The report showed that many transnational corporations and other organizations continued to do business with South Africa. He was convinced that sanctions should be maintained until the process of fundamental transformation, and not mere reform, had become irreversible in South Africa, because, as Nelson Mandela had stated, sanctions had been imposed as a peaceful means to end apartheid, and, given the fact that apartheid had not ended, it was only logical to continue to use that weapon to combat the system.

The meeting rose at 12.55 p.m.